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FCC Mail Room



REPLY TO DES MOINES OFFICE

April 18, 2008

Notice of Ex Parte Presentation

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

ORIGINAL

**RE: Establishing Just and Reasonable Rates for Local
Exchange Carriers -- WC Docket No. 07-135**

Dear Ms. Dortch:

On behalf of certain Iowa LECs, the undersigned made a written *ex parte* presentation to Dana Shaffer, Bureau Chief of the Wireline Competition Bureau and to Ian Dillner, wireline legal adviser to FCC Chairman Kevin Martin. The presentation was made via first class United States mail, postage prepaid. Two copies of the presentation are enclosed.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.

Robert F. Holz, Jr.

Enclosures

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Stephen W. Roberts
William R. King
Robert F. Holz, Jr.
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REPLY TO DES MOINES OFFICE

April 21, 2008

Ex Parte Presentation

Ms. Dana R. Shaffer, Bureau Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Mr. Ian Dillner, Legal Advisor, Wireline Issues
Office of Chairman Kevin Martin
Federal Communications Commission
445 12th Street SW, Room 8-B201
Washington, D.C. 20554

**RE: Establishing Just and Reasonable Rates for Local
Exchange Carriers -- WC Docket No. 07-135**

Dear Ms. Shaffer and Mr. Dillner:

The right of Iowa LECs to designate their point of interconnection (POI) on the Iowa Network Services (INS) network is now the subject of an attempt by AT&T to demonize it as a "scheme" "to inflate access charges".¹ This was first surfaced by an AT&T email of April 30, 2007 to a number of Iowa LECs.^{2 3} AT&T and Qwest commenced withholding a part of the transport charges from a number of Iowa LECs. The affected Iowa LECs communicated with AT&T and Qwest through a memo from Burnie Snoddy, a consultant with Kiesling and Associates⁴. This memo laid out the history of disputes over transport facilities in Iowa and the absolute right granted by the

¹ Comments of AT&T, Inc., December 17, 2007, responding to NPRM in WC Docket No. 07-135 (pp. 34-38).

² Attachment 2 to August 20, 2007 letter to AT&T attached to this letter.

³ Substantially similar correspondence was sent to numerous Iowa LECs by TEOCO on behalf of Qwest in May and June 2007.

⁴ Memo of May 18, 2007 found as Attachment 2 to the August 20, 2007 letter to AT&T attached to this letter. A nearly identical memo was sent to TEOCO on behalf of Qwest dated June 4, 2007.

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Ex Parte Presentation

Ms. Dana R. Shaffer and Mr. Ian Dillner

April 21, 2008

Page 2

Iowa Utilities Board to Iowa LECs to designate their POI on the INS network. After a further round of communication between AT&T and Mr. Snoddy, the undersigned sent a letter to AT&T and to TEOCO dated August 20, 2007. A copy of the AT&T letter is attached. The letter summarizes the discussions to that date and informs AT&T of the follow up communications the undersigned had with INS and NECA. Each confirmed the position of the LECs previously submitted to AT&T. NECA's support is confirmed in writing and provided as Attachment 5 to the August 20, 2007 letter.

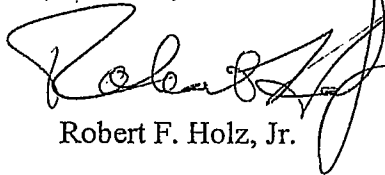
Faced with the compelling support for the right of the Iowa LECs to choose their POI with INS, AT&T and Qwest each agreed to pay the transport charges in full while reserving their right to further contest.

The next time this matter surfaced is in the comments of AT&T in the traffic stimulation NPRM. This right of the Iowa LECs is not related to traffic stimulation and is not a "scheme". This right has existed since the formation of INS in 1988. Yet AT&T asks the FCC to declare as an unreasonable practice under Section 201(b) the rights afforded to Iowa LECs by the Iowa Utilities Board. This proposal for a declaratory ruling has now been promoted in two *ex parte* meetings memorialized in letters of March 11, 2008 and April 7, 2008.

This letter is sent to inform the Commission of the Iowa LECs rights and to demonstrate that the request for declaratory ruling in this regard is not only unrelated to the traffic stimulation issue, but is unsupportable.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.



Robert F. Holz, Jr.

Enclosures

cc: Secretary, Federal Communications Commission (2 copies)



FILE COPY

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APR 23 2008

FCC Mail Room

REPLY TO DES MOINES OFFICE

August 20, 2007

Certified Mail-Return Receipt

Robert W. Hayes
AT&T - Connectivity Billing Management
300 North Point Parkway
Alpharetta, GA 30005

RE: Centralized Equal Access

Dear Mr. Hayes:

I am aware that Burnie Snoddy of Kiesling & Associates has been communicating with you concerning a claim by AT&T of overcharges by Iowa local exchange carriers (LECs) of transport costs. Your claim centers on the LECs designation of its point of interconnection (POI) on the Iowa Network Services (INS) network.

It is my understanding that this controversy was commenced pursuant to an email from you of April 30, 2007 to a number of Iowa companies. I enclose as *Attachment 1* a sample of those emails, this one to Winnebago Cooperative Telephone Association.

On their behalf, and a number of other LECs, Burnie responded to your email in a memorandum of May 18, 2007, articulating the disagreement with your position and pointing out the right of Iowa LECs to select their POI with INS. A copy of that memo is attached as *Attachment 2*.

You had a follow up memo to Burnie dated June 12, 2007 in which you took issue with the rights of the Iowa LECs to select their POI with INS. A copy of that email is included as *Attachment 3*.

Burnie responded in an email of June 20, 2007 reporting on the NECA position which is in support of the position of the Iowa LECs that they have the right to select the POI with INS. He indicated in that email that I would be engaged in future communications and discussions concerning this matter. I have included his June 20 memo as *Attachment 4* to this letter.

#1435545

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We are fully aware of the interests of AT&T to not pay access charges to Iowa local exchange companies. However, a refusal to pay without reasonable basis is both unlawful and actionable. The communications attached give full support for the authority of Iowa LECs to select their POI with INS and that this right has been established from the initial approval of INS as an equal exchange carrier. I have communicated with both INS and NECA concerning our position and the rights of the Iowa LECs. The correctness of our position has been confirmed by both INS and NECA. These sponsors of the respective applicable tariffs setting forth the rights of the parties each has stated expressly their understanding of the history of the establishment of INS and the respective NECA and INS tariffs. Each is in complete concurrence that it is the right of the Iowa LEC to choose its POI with INS. I have attached a letter from NECA which confirms this point as *Attachment 5*.

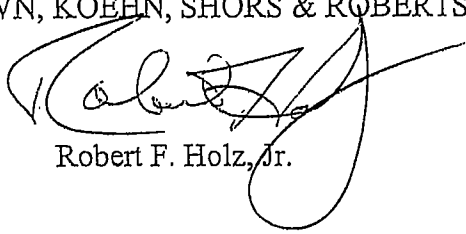
I am informed that INS has reviewed its billings with respect to any allegation of duplicate billing by the Iowa LECs and INS. INS reports that it had determined that there were some charges which they found would be duplicative and they have either tendered or paid any intrastate access charges which may be considered to be duplicative.

From my review, it is apparent that it is only the IXC responsible for payment which refuses to pay a portion of the Iowa LECs access charges claiming that the specific right granted to the Iowa LECs to designate its POI with INS does not exist. In making such a claim, your position is contrary not only to the position of the Iowa LECs, but also the sponsors and authors of the respective tariffs of INS and NECA. AT&T simply has no basis for withholding the access charges of the Iowa LECs on this ground. Its action is without authority, unlawful, unreasonable and actionable.

The Iowa LECs have a right to provide the facilities to its selected POI with INS and to charge the appropriate rates for that transport. On behalf of the affected Iowa LECs, we hereby demand that you cease this unlawful self help conduct and pay to the Iowa LECs the amounts unlawfully held within ten (10) days of the date of this letter. Failure to do so will constitute willful and wanton misconduct on the part of AT&T.

Very truly yours,

DAVIS, BROWN, KOEHN, SHORS & ROBERTS, P.C.



Robert F. Holz, Jr.

Enclosures

-----Original Message-----

From: HAYES, ROBERT W (BOB), ATTCORP [mailto:rhayes@att.com]**Sent:** Monday, April 30, 2007 11:35 AM**To:** John Kroger**Subject:** Centralized Equal Access - Winnebago Cooperative Telephone OCN 1337

John Kroger
Winnebago Cooperative Telephone Association

Dear John,

It has come to AT&T's attention that Winnebago Cooperative Telephone Association (OCN 1337) and Iowa Network Access Division ("INS") – a company that Winnebago Cooperative Telephone Association has an ownership interest in – are engaged in a scheme designed to inflate the originating and terminating access rates AT&T is assessed by Winnebago Cooperative Telephone Association. As a result of this scheme, INS is not providing its Centralized Equal Access Service to AT&T in accordance with the provisions of its FCC and Iowa tariffs and Winnebago Cooperative Telephone Association is charging AT&T for the same transport on INS' system that AT&T already obtains from INS as part of their centralized equal access service. Winnebago Cooperative Telephone Association's actions violate both state and federal law, conflict with INS' approved tariffs, and are inconsistent with engineering principles of least cost routing. AT&T requests that Winnebago Cooperative Telephone Association stop charging AT&T for this duplicative transport and permit INS to provision its Centralized Equal Access Service in accordance with its tariffs and in the manner AT&T understood it was to be provisioned – i.e., by delivering traffic to Winnebago Cooperative Telephone Association at the INS premise closest to Winnebago Cooperative Telephone Association's operating territory.

INS' interstate and intrastate Centralized Equal Access Services tariffs offer interexchange carriers, such as AT&T, centralized equal access service for the switching and transport of interexchange traffic between the INS central access tandem in Des Moines and points on the INS ring where it interconnects with rural LECs. For example, INS' FCC No. 1 tariff specifically provides:

Section 2.4.8 Iowa Network will provide the Switched Transport between Iowa Network's central access tandem and another Iowa Network premises set forth in Section 8 following and bill the charges in accordance with its Centralized Equal Access Tariff. Iowa Network's rate for the Switched Transport element is as set forth in 6.8.1 following. The Routing Exchange Carrier will provide the Switched Transport element between an Iowa Network premises listed in Section 8 following and the end office switch(s) served by Iowa Network's central access tandem and will bill the charges in accordance with its Access Service tariff. When applicable, the Routing Exchange Carrier will also provide the Switched Transport element between the customer's premises and Iowa Network premises listed in Section 8 following. All other appropriate charges in the Routing Exchange Carrier tariff are applicable.

and

6.1 General Switched Access Service, when combined with the services offered by Exchange Telephone Companies, is available to customers. Iowa Network provides a two point electrical communications path between a point of interconnection with the transmission facilities of an Exchange Telephone Company at a location listed in Section 8 following and Iowa Network's central access tandem where the customer's traffic is switched to originate or terminate its communications. It also provides for the switching facilities at Iowa Network's central access tandem. Iowa Network's central access tandem is Iowa Network's switching system located in Des Moines, Iowa that provides a concentration and distribution function for originating and terminating traffic between the end offices of Routing Exchange Carriers listed in Section 9 following and a customer's point of interconnection set forth in Section 8 following. The customer's point of interconnection is the demarcation point or network interface between Iowa Network's communications facilities and customer provided facilities.

In addition, Section 6.1.3 sets forth several diagrams that depict how INS' Centralized Equal Access Service is combined with the service of the rural LECs.

AT&T initially ordered this Centralized Equal Access Service from INS in 1989 when it entered into a blanket letter of agency with INS for the provisions of provide centralized access to each of the participating rural LECs. This letter of agency authorized INS to interconnect the interexchange services of AT&T with the access services of all participating rural LECs via INS' system. That agreement remains in effect today. Since 1989, AT&T has sent traffic to and received traffic from the participating rural LECs via the INS transport ring and, until recently, in each instance, it was AT&T's understanding that the traffic was delivered, in accordance with the INS tariff, to and from the rural LECs over transport trunks provided by INS between its Des Moines' access tandem and the INS premises listed in its tariff that was in the operating territory of or closest to the operating territory of the participating rural LEC's end office. Over these many years, AT&T has paid INS the tariffed per-minute rate for its centralized switched access service, which included INS' provision of the transport between the access tandem and outlying premises on INS' ring. In addition, AT&T understood it was paying the participating rural LECs for transport to and from the participating rural LEC's end office and the INS premises on its ring that was closest to the rural LEC's end office. These transport legs were typically very short.

Recently, AT&T has seen a dramatic increase in its switched access costs from certain rural LECs in Iowa. AT&T began investigating this increase and discovered that Winnebago Cooperative Telephone Association was charging AT&T for transport to and from Des Moines and its end office, rather than transport to and from Winnebago Cooperative Telephone Association's end office and the INS premises on its ring that was closest to Winnebago Cooperative Telephone Association's end office. AT&T contacted INS to question these charges and was advised by INS that some rural LECs had made changes in the LERG to alter their point of interconnection with the INS ring. In fact, Winnebago Cooperative Telephone Association has established its point of interconnection at a point at INS' central access tandem in Des Moines, instead of at the INS premises closest to its end office. In addition, INS informed AT&T that it was leasing facilities on its ring to these rural LECs to transport this traffic back to the same INS premises that INS' tariffs indicate should serve as the INS' interface for handing off the traffic to these rural LECs. According to INS, there has been no change in the actual facilities used to transmit AT&T's traffic; there was simply a paper transaction reflecting the change. AT&T believed that INS was providing its service to AT&T in accordance with its tariffs. It did not become aware of the collaboration between INS and its rural LEC owners to charge AT&T twice for the same transport until it began its investigation. In any event, there is no legitimate operational or other justification for Winnebago Cooperative Telephone Association to establish its interconnection point more than a hundred miles from its operating territory. This action is transparently designed to inflate access billings, contrary to state and federal law.

The net effect of Winnebago Cooperative Telephone Association's and INS' collaboration is that AT&T is billed not only the per minute centralized equal access rate by INS for the switching and transport between the INS central access tandem in Des Moines and the closest INS premises to Winnebago Cooperative Telephone Association, it is also billed for this same transport leg by Winnebago Cooperative Telephone Association. Further, the rate Winnebago Cooperative Telephone Association is billing AT&T for this duplicative tandem transport is substantially more than the per minute access rate charged by INS, which significantly increases the amount of switched access assessed on AT&T by Winnebago Cooperative Telephone Association.

For example, Winnebago Cooperative Telephone Association (OCN 1337) is currently charging AT&T for 126 miles of tandem transport from its end office in Lake Mills, Iowa to the Des Moines access tandem. Under the INS tariffs, Winnebago Cooperative Telephone Association's point of interconnection with the INS ring should be at Mason City, Iowa and Winnebago Cooperative Telephone Association should be charging AT&T for transport of 25 miles. The INS charge for interstate centralized equal access service is \$0.00855 per minute, while Winnebago Cooperative Telephone Association is charging AT&T for 126 miles of transport at \$0.000161, instead of 25 miles at this same rate.

AT&T urges Winnebago Cooperative Telephone Association to discontinue leasing facilities on INS' system and using those facilities for the purposes described above. AT&T demands a refund of all payments made by AT&T for Winnebago Cooperative Telephone Association's duplicative billing of the transport charges between Des Moines and the INS premises in Winnebago Cooperative Telephone Association's the operating territory or closest to Winnebago Cooperative Telephone Association's end office. To that end, if Winnebago Cooperative Telephone

Association does not discontinue charging AT&T the duplicative charges identified upon and take action to refund all charges it has improperly assessed AT&T for this duplicative transport within 30 days of this letter, AT&T intends to commence withholding the difference between the appropriate transport Winnebago Cooperative Telephone Association should be charging AT&T based upon 25 miles of transport, and the transport rate it is currently charging AT&T to carry the traffic to Des Moines. In addition, AT&T intends to offset against current billings, [BAN: 13371DATX] the disputed amount Winnebago Cooperative Telephone Association has been overcharging AT&T, as permitted under applicable tariffs. If Winnebago Cooperative Telephone Association continues to collaborate with INS to double bill AT&T for this transport and does not refund to AT&T its entire payment of these duplicative charges, AT&T will have no choice but to pursue all other available legal recourse.

Sincerely,

Bob Hayes
AT&T - Connectivity Billing Management
Office (770) 750-3835
FAX (770) 750-3802

Circular 230 Disclosure: This is to advise you that, unless expressly stated, nothing in this communication (including any attachment or other accompanying materials) was intended or written to be used, and it cannot be used by any taxpayer, for the purpose of avoiding any federal tax penalties, or for promoting, marketing, or recommending a partnership or other entity, investment plan or arrangement to anyone.

Confidentiality Notice: This communication (including any attachment or other accompanying materials) may contain information that is privileged, confidential or otherwise exempt from disclosure under the law. It is intended only for the use of the individual or entity to which it is addressed. If you are not the addressee, any review, dissemination, distribution or copying is strictly prohibited. If you received this communication in error, please notify the sender and delete all copies.

MEMORANDUM

TO: Bob Hayes
FROM: Burnie Snoddy
DATE: May 18, 2007
RE: Centralized Equal Access

Bob,

Several companies have provided me your email of Monday, April 30, 2007 stating in essence that AT&T somehow believes it is being taken advantage of. These companies include: Mutual Telephone Company-Sioux Center d/b/a Premier Communications, Northern Iowa Telephone Company d/b/a Premier Communications, Liberty Communications, South Slope Cooperative Telephone Company, Preston Telephone Company, Winnebago Coop. Tele. Association, Clear Lake Ind. Tele. Co., Alpine Communications, Westel, Readlyn and LaMotte. The companies have requested that I respond to the AT&T claims on all of their behalf. Would you also be willing to share with me the names of other companies to whom this email was addressed?

We've had an opportunity to have a couple preliminary conversations on this subject matter. Your claims evidence a lack of understanding of some of the rights of the LECs to provide parts of their toll facilities, including those set forth in tariffs relating to the centralized equal access services of INS. Your claim of a "collaboration" to engage in a "scheme" designed to inflate access rates is unfortunate, inflammatory rhetoric without a basis in fact. A basic understanding of the precedents and tariffs will demonstrate that there is no violation of any law, rule or tariff by the Iowa LECs in establishing its POI on the INS network. The applicable cases and tariffs make clear that the LECs have a right to manage their network in the best interests of their company and to manage its transport capacity and connection to its switching facilities for both quality and capacity purposes. Any claim of duplicate billing is also dispelled by an understanding of what is billed in the INS CEA charge and the billing for the LEC transport element in its access charges.

The delineation of rights to provide transport facilities began with the case of *Northwestern Bell vs. Hawkeye State Telephone Company*, 165 N.W.2d 771 (Iowa 1969). In that case, there was a dispute between Northwestern Bell as the interexchange carrier and Hawkeye State as the local exchange carrier as to the point of interconnection and whether Hawkeye State could provide its own transport facilities. The decision of the court was that Northwestern Bell, as the interexchange carrier, did not have the right to dictate the point of interconnection nor to deny a local exchange

carrier the right to provide transport facilities. Rather, disputes on those issues were within the jurisdiction of the Board to determine where the point of interconnection would be located and who would provide what facilities.

That case was followed by *Northwestern Bell vs. Cascade Telephone*, 234 N.W.2d 130 (Iowa 1975). There, the issue was the location, operation and maintenance of certain long distance equipment by Northwestern Bell in the central office of Cascade. Again, the court concluded that neither the interexchange carrier nor the LEC could control the issue of interexchange facilities and connections. The parties were free to negotiate those arrangements, but failing successful negotiations, the matter would be determined by the Iowa Utilities Board.

On October 18, 1988, the Board issued its Final Decision and Order in Iowa Network Services, Docket No. RPU-88-2. That is the docket which approved establishment of INS as a centralized equal access provider in Iowa. One of the questions addressed in that docket was "Should participating telephone companies be allowed to route their originating and terminating traffic as they wish?" The Board concluded at page 8 of its order:

A network concentrating the toll traffic of so many local exchanges companies could not operate effectively if the local exchange companies are not allowed to control the routing of their traffic. The participating telephone companies will be allowed to route their traffic pursuant to their Participation Agreement with INS.

This issue was finally addressed by the Board in what's referred to as the Stanton Case - *Northwestern Bell vs. Farmers Mutual Telephone Company and Iowa Network Services*, Docket No. FCU-90-6, Proposed Decision and Order issued May 10, 1991. In that order, the Board discussed the rights of the LEC as decided in Docket No. RPU-88-2 and under the INS and LEC tariffs. As the Board stated at page 22 of the order:

. . . the Board decided that unless local exchange companies could control the routing of their traffic, the INS network could not operate effectively. The INS tariffs that the Board approved stated unequivocally that PTCs could determine how local access transport should be routed to the POI, . . . With the approval of the INS tariffs, the first point of switching for PTCs moved from the interexchange carrier switches to the INS switch in Des Moines. Moreover, the PTCs were given the right to designate which of the POIs to use and how to route their traffic to the POI to connect with the INS switch.

It stated further at page 23:

However, pursuant to its regulatory authority under Iowa Code Chapter 476, the Board has already given the PTCs the unqualified right to determine how to route their own local access transport traffic.

As the Board noted at page 29:

... the essential decision giving control over the routing of local access transport traffic to the PTCs has already been made by the Board in Docket No. RPU-88-2.

The current NECA tariff FCC No. 5 makes abundantly clear in both Section 6.4.7 and in 6.8.3:

The telephone company will designate the first point(s) of switching and routing to be used where equal access (traffic) is provided through a centralized equal access arrangement.

Iowa precedent and the current tariff provisions make abundantly clear that the LECs may provide and be compensated for transport facilities for interexchange traffic.

How the LECs configure their network is in accord with their own best engineering and economic interests. The LECs have the right to provide transport service to the POI and first point of switching in Des Moines. Many have elected to do so. If they provide the facilities, then they have the right to compensation for the transport services provided. As a matter of fact, for many of the companies, they obtained additional services from INS that are provided over these facilities which do not involve interexchange traffic. The companies have to make their own business decisions as a matter of engineering and economics as to whether they wish to incur the expense of providing facilities to the Des Moines POI of INS. The decisions of the Board and the LEC tariffs give them the absolute right to do so.

You state a concern over duplicate charging; that the LEC and INS would both charge for the same transport facility. For the LECs, the transport charge is provided expressly in their access tariff. While I am not an expert on INS tariffs and pricing, it is my understanding that the INS CEA charge is an aggregate charge including the cost of any transport facilities which it provides. However, if it does not provide a transport facility but rather that transport is provided by the LEC, that facility is not included within the costs of INS which underlie the CEA charge. This would have to be confirmed by you with INS. Since the LECs have the right to provide transport facilities and to be compensated for those facilities, any question of duplicate charge would have to be addressed to INS as to how their costs are reflected in their charges.

Your demand that the LECs discontinue leasing facilities on INS's system is without any basis whatsoever and inconsistent with the rulings of the Board and the tariffs of the companies. There is no basis for demand of any refund as there is no

From: HAYES, ROBERT W (BOB), ATTOPS [mailto:rhayes@att.com]

Sent: Tuesday, June 12, 2007 12:19 PM

To: Burnle E. Snoddy

Cc: Doug Eidahl; RAMMAH, SAFIR H, ATTCORP; ENZOR, KAREN S, ATTOPS

Subject: RE: Centralized Equal Access

Burnle,

We are in receipt of your Memorandum, dated May 18, 2007, which responds to the email AT&T sent to certain rural independent telephone companies in Iowa regarding the assessment by these companies of access charges that are improper and duplicative of charges already assessed by Iowa Network Access Division ("INS"). As we understand it, you represent Mutual Telephone Company, Northern Iowa Telephone Company, Liberty Communications, South Slope Cooperative Telephone Company, Preston Telephone Company, Winnebago Coop. Tele. Association, Clear Lake Ind. Tele. Co., Alpine Communications, Westel, Readlyn and LaMotte ("LECs").^[1]

AT&T disagrees with your analysis and conclusions regarding the independents' so-called "rights." In addition, the case law, Board rulings and tariffs you cite are not dispositive of the access services at issue here for several reasons. First, several of the cases you cite precede the establishment of INS' network and are, therefore, not relevant. In addition, the cases you cite address matters not at issue here. Specifically, they address the establishment of the POI, the control of facilities within the operating territory of the LEC or the provisioning of switched transport between INS premises, not transport between the INS switch in Des Moines and other Iowa Network premises – transport that is provided as part of the centralized equal access rate by INS.

Second, AT&T does not dispute, at this time, that the Iowa Board and the INS intrastate tariff permits participating LECs to establish the first point of switching and determine the routing of intrastate traffic to their respective exchanges over the INS network. However, these "rights," alone, do not resolve the issues here for several reasons. As an initial matter, the INS interstate tariff does not include this same language. In fact, INS' interstate tariff provides that INS (not the participating LEC) is responsible for the design and routing of switched access service, including the selection of the facilities used from Iowa Network's central access tandem to the end offices of the participating LECs serving the customer, when the customer's (AT&T's) point of interconnection is located at INS' central access tandem, as is the case with AT&T. See INS FCC No. 1, Section 6.5.2. In addition, as noted in our prior email INS' interstate tariff specifically states that INS will provide the switched transport between Iowa Network's central access tandem and another Iowa Network premise and bill the charges for that service in accordance with its interstate tariff. INS FCC No. 1, Section 2.4.8. Since the lion share of the traffic at issue is interstate traffic, it is the interstate tariff that governs the traffic, not the INS intrastate tariff.

Further, nowhere does the Iowa Board orders, the INS tariff or the NECA tariffs you cite permit the LECs to charge for traffic routed over the INS network, whether leased by the LEC or not. Similarly, there is no provision in either the INS interstate or intrastate tariff that permits the participating LEC to provide the transport between the INS central access tandem and another INS premise. In fact, even the cases you cite contemplate that INS will be the "exclusive provider of terminating access for the participating LEC's" (*Northwestern Bell Telephone Company*, 477 N.W.2d 678, 684 (Ia. 1991) and the tariff approved by the Board permits the participating LECs to "route terminating traffic destined for their exchanges over the INS central equal access switched network and allowed INS to apply its centralized equal access rate to that traffic" (*Northwestern Bell Telephone Company v. Farmers Mutual Telephone Company*, Docket No. FCU-90-6, 1991 WL 517007 (May 10, 1991)). In addition, the INS intrastate tariff states that the participating LECs may bill only for switched access services provided in their operating territories. See e.g., INS Iowa Tariff No. 1, Sections 2.4.8(B) and 6.7.1(E)(2).

Nor is there anything in the INS interstate tariff that supports your assertion that the INS centralized equalized access rate is different if the transport between the INS central access tandem and another INS premise is provided by a participating LEC. If the provisioning methodology you suggest were in fact authorized, there would be two centralized equal access rates – one where the transport between the INS central access tandem and another INS premise is provided by a participating LEC and one where it is not. However, in the interstate tariff, there is only a single aggregate centralized equal access rate that includes both switching and transport.

In addition, it appears that the participating LECs, including your clients, are charging AT&T for access services provided outside of their certificated serving territories and for services that may not be covered by their existing access services tariffs, in violation of Iowa Code 476.3, 476.4 and 476.29, at a minimum.

Accordingly, AT&T renews its request that the LECs, including the LECs you represent, discontinue leasing facilities on INS' network and using those facilities for the purposes previously described by AT&T. AT&T continues to demand a refund of all payments made by AT&T to the LECs of these duplicative billing of the transport charges between Des Moines and the INS premises that is in the LEC's operating territory or closest to the LEC's serving end office. If the LECs you represent continue to collaborate with INS to double bill AT&T for this transport and do not refund to AT&T its entire payment of these duplicative charges, AT&T will have no choice but to pursue all other available legal recourse.

Sincerely,

Bob Hayes
AT&T - Connectivity Billing Management
Office (770) 750-3835
FAX (770) 750-3802

Robert Holz - RE: Centralized Equal Access

From: "Burnie E. Snoddy"
To: "HAYES, ROBERT W (BOB), ATTOPS"
Date: 6/20/2007 3:00 PM
Subject: RE: Centralized Equal Access
CC: "Doug Eidahl" , "RAMMAH, SAFIR H, ATTCORP" , "ENZOR, KAREN S, ATTOPS" ,
Attachments: "Doug Eidahl" , "RAMMAH, SAFIR H, ATTCORP" , "ENZOR, KAREN S, ATTOPS" ,

Bob

This message is to respond to the AT&T dispute regarding CEA transport billing on behalf of the companies we are working with. You responded and this is a result of our follow up with NECA. I have visited with NECA and their interpretation of the NECA tariff is the same as the position we stated in the previous memo. Should you decide to withhold revenue, I would remind you it will be NECA with whom you will be withholding revenue. In addition, NECA has provided us with the Tariff filed to implement CEA in NECA FCC #5 as well as the applicable D&J. It seems clear there is the right of the LECs to determine route as well as the first point of switching. NECA will likely be involved if interstate revenue is withheld. It should be noted, INS was the ONLY CEA provider at the time of the NECA filing.

Here is the copy of the transmittal that initially introduced the concept of centralized equal access to NECA's Tariff F.C.C. No. 5 for centralized equal access. The D and J starts on page 21. NECA advised us their tariff people will be working with the NECA legal department to analyze the issue further.

I have also reviewed the AT&T view that the ILECs may be violating Iowa/rules by providing service outside their certified territory. My interpretation of the rules is those apply to local exchange service, not access service. I believe the LECs have the right to bill the applicable parts of transport the provide. However, I have requested Bob Holz review that issue as well as the other points you have identified.

I would also reiterate, we firmly believe the LECs have the right to bill this transport and would request you look further at your positions. I have copied this message to Bob Holz, attorney representing the LECs and it will likely be he who is involved in further discussion of this issue. If you accept our explanation, we would consider the dispute resolved. We would again state, if you have an issue with INS billing, you should take it up with them, not the LECs. AT&T should look again at this with the view the LECs provide service via the NECA FCC #5 access tariff, not the INS tariff. If you have an issue with INS tariff and its language you should take that issue up with them. We want to assure you we are willing to discuss this, but nothing you have stated below has changed our view.

Burnie E. Snoddy
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From: HAYES, ROBERT W (BOB), ATTOPS [mailto:rhayes@att.com]



14515 F Street
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Jeffrey Phillips
Director – North Central Region Omaha

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Fax: 800-367-5058
E-mail: jphilli@neca.org

July 30, 2007

Burnie Snoddy
Kiesling Associates
7780 Office Plaza Drive South, Suite 184
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50266-2336

Dear Mr. Snoddy:

At your request NECA has reviewed the correspondence from AT&T regarding the right of NECA member companies to reconfigure their networks and change their point of interconnection on that network in a centralized equal access environment. NECA's position is that its member companies have the authority under tariff to reconfigure their networks from time to time to satisfy their specific requirements.

Tariff FCC No. 5, Section 6.8.3 clearly states, "The Telephone Company will designate the first point(s) of switching and routing to be used where equal access is provided through a centralized equal access arrangement." Further, Section 2.1.9 of the tariff states a telephone company has the right to reconfigure its network so long as it provides advance notice to existing customers of its plans.

Best regards,

A handwritten signature in cursive script that reads "Jeffrey J. Phillips". The ink is dark and the signature is fluid.

Jeff Phillips
Director-North Central Region

Enclosure

cc: Norm St. Laurent